

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

DEANDRE BETHEL,

Petitioner,

v.

**JOE M. ALLBAUGH, Director,
Oklahoma Department of Corrections,**

Respondent.

Case No. 17-CV-367-JHP-FHM

ORDER

On June 26, 2017, Petitioner, a pro se state prisoner, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions in Tulsa County District Court Case No. CF-2012-660 for First Degree Felony Murder (Count 1), Transporting a Loaded Firearm in a Vehicle (Count 3), and Public Intoxication (Count 4) (Dkt. 1). Petitioner paid the \$5.00 filing fee on June 27, 2017 (Dkt. 2). Respondent has filed a response to the petition with related records (Dkts. 7, 8, 9), and Petitioner has filed two replies to the response (Dkts. 10, 11).

On July 19, 2017, Petitioner filed a motion for an evidentiary hearing, asking the Court to conduct a hearing on his allegation of actual innocence with respect to his claim of ineffective assistance of counsel (Dkt. 3). He claims that he has discovered eyewitnesses who could have testified that he was not present at the crime. *Id.* at 3-4. Petitioner also allegedly has discovered that the crime was not a robbery, but was instead an act of retaliation over an ongoing feud between two other persons. *Id.* at 3.

Petitioner's motion for an evidentiary hearing (Dkt. 3) shall be **denied** at this time. Should the Court determine, after review of the parties' briefs, that an evidentiary hearing is required for resolution of Petitioner's claims, an appropriate order setting an evidentiary hearing will be entered.

ACCORDINGLY, IT IS HEREBY ORDERED that Petitioner's motion for evidentiary hearing (Dkt. 3) is **denied** at this time.

DATED this 12th day of January 2018.


James H. Payne
United States District Judge
Northern District of Oklahoma